

**CALIFORNIA WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

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Tentative Order No. R9-2021-0169

**WASTE DISCHARGE REQUIREMENTS
FOR
THE CITY OF SAN DIEGO**

**MAPLE CANYON PROJECT, PHASE 2: STREAM REHABILITATION AND
RESTORATION
SAN DIEGO COUNTY**

The following Discharger is subject to waste discharge requirements as set forth in this order:

TABLE 1. Discharger Information

| | |
|---|--|
| Discharger | City of San Diego |
| Name of Project | Maple Canyon Project Phase 2: Stream Restoration and Rehabilitation |
| Project Address | Maple Canyon, west of Balboa Park, between Redwood Street and West Maple Street City of San Diego, San Diego County, CA |
| Project Contact, Title and Phone | Maya Mazon, Biologist III, (619) 533-4620 |
| Mailing Address | 525 B Street, MS 908A, San Diego, CA 92101 |
| Type of Project | Stream Restoration |
| CIWQS Reg. Meas. ID | 442137 |
| CIWQS Place ID | 855844 |
| CIWQS Party ID | 556507 |
| CIWQS Person ID | 621751 |
| WDID Number | 9 000003669 |

TABLE 2. Discharge Location

| Discharge Point | Discharge Description | Discharge Point Latitude | Discharge Point Longitude | Receiving Water |
|---|--|---------------------------------|----------------------------------|---|
| Refer to Attachment A for a map of all discharge locations. | Permanent fill associated with stream restoration. | 32.73397 | -117.165000 | Maple Canyon Stream, a tributary to San Diego Bay |

TABLE 3. Administrative Information

| | |
|---|------|
| This order was adopted by the California Regional Water Quality Control Board, San Diego Region on: | DATE |
| This order shall become effective on: | DATE |

I, David W. Gibson, Executive Officer, do hereby certify that this order is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Diego Region, on DATE.

TENTATIVE

David W. Gibson
Executive Officer

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I. FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board) finds:

A. REPORT OF WASTE DISCHARGE

The City of San Diego (hereinafter Discharger) submitted an application for waste discharge requirements under this order (Order) to construct the Maple Canyon Project, Phase 2: Stream Restoration and Rehabilitation (Project), located in San Diego County, on February 3, 2021. Additional information to complete the application was received on April 15, 2021. The application was deemed complete on May 21, 2021. The Discharger proposes to discharge fill material to waters of the State of California (State) associated with construction activity at the Project site.

B. STATEMENT OF BASIS

The San Diego Water Board developed the requirements in the Order based on information submitted as part of the application and other available information, and in accordance with California Water Code, division 7 and California Code of Regulations, title 23, division 3.

C. APPLICATION FEES

The Discharger has paid all required application and project fees in the amount of \$4,011.00 in accordance with the fee schedule in the California Code of Regulations, title 23, section 2200(a)(3) for discharges of dredge and fill material, which were in effect at the time of the initial application submittal. Pursuant to fee schedules currently set in CCR Title 23, annual fees are required.

D. PROJECT LOCATION

The Project is located within the City of San Diego, San Diego County, California, in Maple Canyon, west of Balboa Park, between Redwood Street and West Maple Street. Attachment A of the Order provides the location of the Project site.

E. OVERALL PROJECT PURPOSE AND DESCRIPTION

The purpose of the Project is to eliminate the flooding that has caused severe erosion in Maple Canyon and flooding of the downstream street and neighborhood. The Discharger will stabilize the walls of the main channel and tributaries and install drop structures to reduce water velocity.

The walls of the main channel and tributaries will be laid back to have shallower slopes of 2:1 to 3:1, non-native invasive plants will be removed, and the slopes will be re-planted with native vegetation. In the main channel, 23 drop structures will be installed to slow the velocity of water flowing through the canyon. The drop structures will be constructed of ungrouted concrete riprap with a vertical drop of less than 4', with a 0.5-1% slope between structures to produce non-erosive flows less than 6 feet per second. Construction access will occur from an existing 15' wide trail outside of jurisdictional resources. Once construction is complete, the trail will be narrowed to an 8' wide trail for public recreational access.

Construction will last approximately two years and will be followed by a 5-year period of maintenance and monitoring.

These activities comprise Phase 2 of the Project. Phase 1, to be authorized under a separate order establishing waste discharge requirements, will replace storm drains leading into the canyon, add concrete energy dissipators, and add a new storm drain system at the downstream end of the canyon that will tie into the existing storm drain system.

F. RECEIVING WATERS

The Project activities will impact one ephemeral drainage, Maple Canyon Stream, which supports 2704.5 linear feet of waters of the State. Maple Canyon Stream flows in response to rainfall and urban runoff and has no connection with groundwater. The upstream end is fed by a storm drain outfall and the downstream end flows onto West Maple Street. Maple Canyon Stream is a tributary to San Diego Bay.

Maple Canyon Stream is in the Lindbergh Hydrologic Subarea (HSA 908.21) of the San Diego Mesa Hydrologic Area (HA) and Pueblo San Diego Hydrologic Unit (HU).

G. PROJECT IMPACTS TO RECEIVING WATERS

The Order authorizes the temporary discharge of fill material to 0.32 acres (2692 linear feet) and the permanent discharge of fill material to 0.007 acres (63 lf and 619 cubic yards) of Maple Canyon Stream, an ephemeral streambed surface water of the State in the Lindbergh Hydrologic Subarea (HSA 908.21) of the San Diego

Mesa Hydrologic Area (HA 908.20) of the Pueblo San Diego Hydrologic Unit (HU 908.00).

The Project will shorten the length and increase the area of stream and riparian habitat. The stream length will be reduced from 2,755 to 2610 lf. The Project will establish and re-establish approximately 1 acre of surface waters of the State. Attachment A of the order contains figures showing areas of impact and restoration.

The Project was designed to avoid and minimize, to the maximum extent practicable, permanent and temporary impacts to waters of the State.

H. AVOIDANCE AND MINIMIZATION

The Discharger has demonstrated that the Project was designed to first avoid, then minimize, to the maximum extent practicable, impacts to waters of the State. The Discharger reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to aquatic resources considering all potential practicable alternatives.

The Project qualifies as a Tier 2¹ project under the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. The Discharger completed an Alternatives Analysis, and the Project is the least environmentally damaging practicable alternative.

I. PROJECT MITIGATION

The Project will establish and re-establish at least 2.89 acres of waters of the State, comprising streambed and riparian habitat. This is a net increase in quantity, quality, and beneficial uses of waters of the State. The Discharger is voluntarily undertaking a restoration project for the purpose of controlling flooding, assisting the recovery of an aquatic ecosystem, and enhancing beneficial uses, in lieu of other possible alternatives such as hardscaping or routing the stream underground. Thus, no compensatory mitigation is required.

J. REGULATORY AUTHORITY AND REASON FOR ACTION

By letter dated [PENDING], the U.S. Army Corps of Engineers (USACE) determined that the proposed Project activities will not result in the discharge of dredged or fill material to waters of the United States. Therefore, the Project is not subject to USACE jurisdiction under section 404 of the Clean Water Act (CWA) and a CWA section 404 permit is not required for the Project.

However, surface waters affected by the Project are waters of the State, as defined by section 13050(e) of the California Water Code (Water Code). Waters of the State include, but are not limited to, wetlands and ephemeral, intermittent, and perennial stream channels, in all flow conditions, and which may be effluent dominated and

¹ Tier 2 projects include any project that inherently cannot be located at an alternate location. Tier 2 projects shall provide an analysis of only on-site alternatives. For routine operation and maintenance of existing facilities, analysis of on-site alternatives is limited to operation and maintenance alternatives for the facility.

seasonally dry. Waste discharges to these waters are subject to State regulation under division 7 of the Water Code (commencing with section 13000). Section 13260(a) of the Water Code requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the State, file a Report of Waste Discharge. The discharge of dredged or fill material constitutes a discharge of waste that could affect the quality of waters of the State. Water Code section 13263(a) requires that waste discharge requirements (WDRs) be prescribed as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Such waste discharge requirements must implement any relevant water quality control plans, taking into consideration beneficial uses to be protected, the water quality objectives reasonably required for those purposes, other waste discharges, the need to prevent nuisance, and the provisions of Water Code section 13241.

The Order is issued pursuant to Water Code section 13263 and establishes waste discharge requirements for the discharge of fill material, including structural material and/or earthen wastes from Project construction activities to waters of the State. The waste discharge requirements of the Order are necessary to adequately address potential and anticipated impacts to waters of the State, and to ensure compliance with applicable water quality control plans and polices.

K. BASIN PLAN BENEFICIAL USES

The San Diego Water Board adopted the *Water Quality Control Plan for the San Diego Basin* (hereinafter Basin Plan) on September 8, 1994 that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for the San Diego River and other receiving waters addressed through the Plan. Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Resources Control Board (State Water Board). Beneficial uses applicable to Maple Canyon Stream specified for the Pueblo San Diego Watershed (HU 908.00) in Chapter 2² of the Basin Plan are as follows:

TABLE 4. Basin Plan Designated Beneficial Uses of Maple Canyon Stream

| Discharge Points | Receiving Water Name | Beneficial Uses(s) |
|---|---|---|
| Maple Canyon Refer to Attachment A for location map. | Maple Canyon Stream, a tributary to San Diego Bay | Contact Water Recreation (REC1); Non-Contact Water Recreation (REC2); Warm Freshwater Habitat (WARM); Wildlife Habitat (WILD) |

The Order specifies waste discharge requirements that are necessary to adequately address effects on, and threats to, applicable water quality standards resulting from

² Basin Plan, Chapter 2, Page 2-43, Table 2-2, Beneficial Uses of Inland Surface Waters, available on the San Diego Water Board website at https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan

discharges attributed to the Project. Through compliance with the waste discharge requirements of the Order, the Project will not cause or contribute to an exceedance of State water quality standards.

L. ANTI-DEGRADATION POLICY

The State Water Resources Control Board established California's anti-degradation policy in State Water Board Resolution No. 68-16 (Policy) which requires that existing quality of waters be maintained unless degradation is justified based on specific findings. Minimal water quality degradation may be allowed under the Policy only if any change in water quality is consistent with the maximum benefit to the people of the State; the degradation will not unreasonably affect present and anticipated beneficial uses; and the degradation will not result in violation of any applicable Water Quality Control Plan. The Policy requires that discharges meet requirements that will result in the best practicable treatment or control to avoid pollution or a condition of nuisance.

Consistent with the Policy, any degradation resulting from the Project will reduce erosion in Maple Canyon and eliminate severe flooding downstream, thus providing maximum benefit to the people of the State. The Order contains waste discharge requirements to ensure present and future beneficial uses are maintained for authorized impacts to waters of the State. The waste discharge requirements employ best practicable treatment and control of any discharges to ensure and verify that the highest level of water quality is maintained consistent with the maximum benefit to the people of the State.

M. NO NET LOSS POLICY

In 1993, the Governor of California issued the California Wetlands Conservation Policy (Executive Order W-59-93). Commonly referred to as the "No Net Loss Policy" for wetlands, the Executive Order requires state agencies to "ensure no overall net loss [of wetlands] and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property." The Order meets the objectives of Executive Order W-59-93 by requiring that the Project first avoid and then minimize adverse impacts on aquatic resources to the maximum extent practical. The Project will reduce erosion and restore Maple Canyon Stream and the surrounding riparian habitat, thus restoring the condition of aquatic resources and supporting beneficial uses in accordance with the No Net Loss Policy.

N. MONITORING AND REPORTING REQUIREMENTS

The Order includes monitoring and reporting requirements in section VIII. These requirements are necessary to determine compliance with the Order for the protection of water quality and beneficial uses. The San Diego Water Board estimates that compliance with the monitoring and reporting requirements will cost approximately \$350,000 to 400,000. The burden, including costs, of the required reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

O. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City of San Diego is the lead agency (Lead Agency) under the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) section 21067, and CEQA Guidelines (California Code of Regulations, title 14, sections 15000 et seq.) section 15367. The Lead Agency has determined that the Project is exempt from review under CEQA pursuant to CCR, title 14, section 15061 and has filed a notice of exemption (NOE; SCH No. 2020060453) on [DATE PENDING], 2021.

The San Diego Water Board is a Responsible Agency under CEQA (Public Resources Code, section 21069; CEQA Guidelines section 15381). As a Responsible Agency, the San Diego Water Board is “responsible for considering only the effects of those activities involved in a project which it is required by law to carry out or approve.” The San Diego Water Board has reviewed and considered impacts to water quality in the Lead Agency’s NOE and independently finds that the Project as proposed will not have a significant effect on resources within the San Diego Water Board’s purview. Specifically, the issuance of this Order and the activities described herein meet the exemption criteria under CCR, title 14, section 15333. Additionally, the San Diego Water Board concludes that no exceptions to the CEQA exemption apply to the activities approved by this Order.

The Order requires implementation of waste discharge requirements. The San Diego Water Board finds that compliance with the conditions in the Order will reduce impacts to water quality to less than significant because implementation of BMPs will ensure that the Project complies with applicable water quality objectives. The San Diego Water Board will file a notice of exemption in accordance with CEQA Guidelines section 15096(i).

P. EXECUTIVE OFFICER DELEGATION OF AUTHORITY

The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to Water Code section 13223. Therefore, the Executive Officer is authorized to act on the San Diego Water Board’s behalf on any matter within the Order unless such delegation is unlawful under Water Code section 13223 or the Order explicitly states otherwise.

Q. PUBLIC NOTICE

In accordance with the requirements of Water Code section 13167.5, the San Diego Water Board has notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. The San Diego Water Board provided written responses to all timely received public comments on the Tentative Order. The San Diego Water Board has also provided an opportunity for the Discharger and interested agencies and persons to submit oral comments and recommendations at a public hearing.

R. PUBLIC HEARING

The San Diego Water Board, in a public meeting, heard and considered all comments pertaining to the discharge and the Tentative Order.

THEREFORE, IT IS HEREBY ORDERED that, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, the Discharger shall comply with the requirements in the Order.

II. PROJECT IMPACTS AND COMPENSATORY MITIGATION

A. PROJECT IMPACT AVOIDANCE AND MINIMIZATION

The Project must avoid and minimize adverse impacts to waters of the State to the maximum extent practicable.

B. PROJECT IMPACTS

Unavoidable Project impacts to Maple Canyon Stream must not exceed the type and magnitude of impacts described in Tables 5 and 6, below.

TABLE 5. Permanent Project Impacts

| Aquatic Resource Impacted | Acres | Cubic Yards | Linear Feet |
|---------------------------|-------|-------------|-------------|
| Stream Channel | 0.32 | N/A | 2692 |

TABLE 6. Temporary Project Impacts³

| Aquatic Resource Impacted | Acres | Cubic Yards | Linear Feet |
|---------------------------|-------|-------------|-------------|
| Stream Channel | 0.007 | 619 | 63 |

C. RESTORATION OF AREAS OF TEMPORARY DISTURBANCE

The Discharger must restore areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration must include grading of disturbed areas to pre-Project contours and revegetation with native species. The Discharger must implement all necessary BMPs to control erosion and runoff from areas associated with this Project. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive

³ As described in Finding I.H, no compensatory mitigation is required for temporary impacts that are restored to pre-project conditions.

Plant Inventory, which can be found online at <http://www.cal-ipc.org/ip/inventory/>. Follow-up applications shall be made, as needed, to cover bare spots and to maintain adequate soil protection.

III. RECEIVING WATER LIMITATIONS

The receiving water limitations set forth below for Maple Canyon Stream are based on applicable water quality standards contained in the Basin Plan and are a required part of the Order. Except as authorized by the Order, Project activities shall not cause or contribute to violation of these receiving water limitations.

A. BACTERIAL CHARACTERISTICS

1. *Escherichia coli* (*E. coli*): The bacteria water quality objective for all waters where the salinity is equal to or less than 1 part per thousand (ppt) 95 percent or more of the time during the calendar year is:
 - a. A six-week rolling geometric mean of *E. coli* not to exceed 100 colony forming units (CFU) per 100 milliliters (mL), calculated weekly; and
 - b. A statistical threshold value (STV) of 320 CFU per 100 mL not to be exceeded by more than 10 percent of the samples collected in a calendar month, calculated in a static manner.
2. Enterococci: The bacteria water quality objective for all waters where the salinity is greater than 1 ppt more than 5 percent of the time during the calendar year is:
 - a. A six-week rolling geometric mean of enterococci not to exceed 30 CFU per 100 mL, calculated weekly; and
 - b. A STV of 110 CFU per 100 mL not to be exceeded by more than 10 percent of the samples collected in a calendar month, calculated in a static manner.

B. CHEMICAL CHARACTERISTICS

1. Changes in normal ambient pH levels shall not exceed 0.5 units in waters designated cold freshwater habitat or warm freshwater habitat beneficial uses. The pH shall not be depressed below 6.5 nor raised above 8.5 in inland surface waters.
2. Concentrations of nitrogen and phosphorus, by themselves or in combination with other nutrients, shall be maintained at levels below those which stimulate algae and emergent plant growth.
3. The discharge of wastes shall not cause concentrations of un-ionized ammonia (NH₃) to exceed 0.025 mg/L as nitrogen.
4. Dissolved oxygen levels shall not be less than 5.0 mg/L in inland surface waters with designated warm freshwater habitat beneficial uses or less than 6.0 mg/L in waters designated cold freshwater habitat beneficial uses. The annual mean dissolved oxygen concentration shall not be less than 7.0 mg/L more than 10 percent of the time.
5. No individual pesticide or combination of pesticides shall be present in the water column, sediments or biota at concentration(s) that adversely affect beneficial

uses. Pesticides shall not be present at levels which will bioaccumulate in aquatic organisms to levels which are harmful to human health, wildlife or aquatic organisms.

6. Numerical water quality objectives applicable to Maple Canyon Stream in the Pueblo San Diego Watershed (HU 908.00) established in Chapter 3 of the San Diego Water Board's Water Quality Control Plan for the San Diego Basin (Basin Plan) shall not be exceeded.

C. PHYSICAL CHARACTERISTICS

1. Water shall be free of coloration that causes nuisance or adversely affects beneficial uses. The natural color of fish, shellfish, or other resources shall not be impaired.
2. Waters shall not contain floating material, including solids, liquids, foams, and scum in concentrations which cause nuisance or adversely affect beneficial uses.
3. Waters shall not contain oils, greases, waxes, or other materials in concentrations which result in a visible film or coating on the surface of the water or on objects in the water, or which cause nuisance or otherwise adversely affect beneficial uses.
4. The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
5. Waters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses.
6. Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses.
7. Waters shall not contain taste or odor producing substances at concentrations which cause a nuisance or adversely affect beneficial uses.

D. TOXICITY CHARACTERISTICS

All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Compliance will be determined by use of indicator organisms, analysis of species diversity, population density, growth anomalies, bioassays of appropriate duration, or other appropriate methods, as specified by the San Diego Water Board.

E. BIOLOGICAL CHARACTERISTICS

Aquatic communities and populations, including vertebrates, invertebrates, and non-target plant species are not to be degraded.

F. RADIOACTIVITY CHARACTERISTICS

Radionuclides shall not be present in concentrations that are harmful/deleterious to human, plant, animal, or aquatic life nor that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal, or aquatic life.

IV. DISCHARGE PROHIBITIONS

A. PROJECT CONFORMANCE WITH APPLICATION

The discharge of waste, in a manner or location other than as described in the application or findings of the Order and for which valid waste discharge requirements are not in force, is prohibited.

B. WASTE MANAGEMENT

Unless authorized by the Order, the discharge of sand, silt, clay, or other earthen materials from any activity in quantities which cause deleterious bottom deposits, turbidity, or discoloration in waters of the State or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.

C. WASTE MANAGEMENT

The treatment, storage, or disposal of waste in a manner causing, or threatening to cause or create a condition of pollution, contamination, or nuisance, as defined by Water Code section 13050, is prohibited.

D. WASTE MANAGEMENT

The dumping, deposition, or discharge of waste directly into waters of the State, or adjacent to such waters in any manner which may permit it being transported into the waters, is prohibited unless authorized by the San Diego Water Board.

E. BASIN PLAN PROHIBITIONS

The Discharger must comply with all applicable Discharge Prohibitions contained in Chapter 4 of the Basin Plan. All such prohibitions are incorporated by this reference into the Order as if fully set forth herein and are summarized in Attachment C of the Order.

V. CONSTRUCTION BEST MANAGEMENT PRACTICES

A. APPROVALS TO COMMENCE CONSTRUCTION

The Discharger shall not commence Project construction until all necessary federal, State, and local approvals are obtained.

B. PERSONNEL EDUCATION

Prior to the start of the Project, and annually thereafter until construction is completed, the Discharger must educate all personnel on the requirements in the

Order, including pollution prevention measures, spill response, and BMPs implementation and maintenance.

C. SPILL CONTAINMENT MATERIALS

The Discharger must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.

D. GENERAL CONSTRUCTION STORM WATER PERMIT

Prior to start of Project construction, the Discharger must, as applicable, obtain coverage under, and comply with, the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Discharger must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities.

E. WASTE MANAGEMENT

The Discharger must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, State, and local laws and regulations. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff.

F. DOWNSTREAM EROSION

Discharges of concentrated flow during construction or after completion of the Project must not cause downstream erosion or damage to properties or stream habitat.

G. CONSTRUCTION EQUIPMENT

All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment components used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.

H. PROCESS WATER

Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or State or placed in locations that may be subjected to storm flows. Pollutants discharged to

areas within a stream diversion area must be removed at the end of each workday or sooner if rain is predicted.

I. SURFACE WATER DIVERSION

All surface waters, including ponded waters, must be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving waters. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.

J. DESIGN OF STREAM CROSSINGS

Bridges, culverts, dip crossings, or other stream crossing structures shall be designed and installed so they will not cause scouring of the stream bed and erosion of the banks. Storm drain lines/culverts and other stream crossing structures shall be designed and maintained to accommodate at least a 100-year, 24-hour storm event, including associated bedload and debris with a similar average velocity as upstream and downstream. Bottoms of temporary culverts shall be placed at stream channel grade and bottoms of permanent culverts shall be open bottom or embedded and backfilled below the grade of the stream greater than or equal to a depth of 1 foot.

K. RE-VEGETATION AND STABILIZATION

All areas that will be left in a rough graded state must be stabilized no later than two weeks after completion of grading. The Discharger is responsible for implementing and maintaining BMPs to prevent erosion of rough graded areas. Hydroseed areas must be revegetated with native species appropriate for the area. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at the California Invasive Plant Council's webpage (<https://www.cal-ipc.org/plants/inventory/>). Follow-up seed applications must be made as needed to cover bare spots and to maintain adequate soil protection.

L. HAZARDOUS MATERIALS

Except as authorized by the Order, substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.

M. VEGETATION REMOVAL

Removal of vegetation must occur by hand, mechanically, or using United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to prevent impacts to beneficial uses of waters of the State. Use

of aquatic pesticides must be done in accordance with State Water Resources Control Board Water Quality Order No. 2013-0002-DWQ, General Permit No. CAG990005, *Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Aquatic Pesticide Discharges to Waters of The United States from Algae and Aquatic Weed Control Applications*, and any subsequent revisions or reissuance thereto.

N. LIMITS OF DISTURBANCE

The Discharger shall clearly define the limits of Project disturbance to waters of the State using highly visible markers such as flag markers, construction fencing, or silt barriers prior to commencement of Project construction activities within those areas.

O. BENEFICIAL USE PROTECTION

The Discharger must take all necessary measures to protect the beneficial uses of waters of Maple Canyon Stream, its unnamed tributaries, and its downstream waters. The Order requires compliance with all applicable requirements of the Basin Plan. If at any time, an unauthorized discharge to waters of the State occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately, and the San Diego Water Board shall be notified in accordance with Reporting Requirement VII.K of the Order. Associated Project activities may not resume without approval from the San Diego Water Board.

VI. POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

A. POST-CONSTRUCTION DISCHARGES

The Discharger shall not allow post-construction discharges from the Project site to cause or contribute to on-site or off-site erosion or damage to properties or stream habitats.

B. STORM DRAIN INLETS

All storm drain inlet structures within the Project boundaries must be stamped and/or stenciled with appropriate language prohibiting non-storm water discharges.

C. POST-CONSTRUCTION BMP DESIGN AND IMPLEMENTATION

The Project must be designed to comply with the most current Standard Storm Water Mitigation and Hydromodification Plans for the City of San Diego. The Discharger must implement post-construction BMPs as described in the runoff management plan for the Project. Post-construction BMPs must be installed and functional within 30 days of Project completion.

D. POST-CONSTRUCTION BMP MAINTENANCE

All post-construction structural treatment BMPs, including, but not limited to, vegetated swales and media filters, must be regularly inspected and maintained in perpetuity per manufacturers' specifications for proprietary structural devices, and at

frequencies not less than those recommended by the California Storm Water Quality Association (CASQA)⁴ guidance, or equivalent if approved by the San Diego Water Board, for non-proprietary measures. At a minimum, the Discharger must comply with the following:

3. Final maintenance plans for the vegetated swales must be developed and implemented based on CASQA guidance (or equivalently effective practices).
4. Flow-based treatment BMPs (e.g., media filters and vegetated swales) must be inspected at a minimum monthly from October through April and at least twice from May through September each year.
5. Retention basins must be maintained as necessary to prevent nuisance conditions, including those associated with odors, trash, and disease vectors. Such maintenance shall not compromise the ability of the basins to perform water quality treatment required by the Order.
6. Records must be kept regarding inspections and maintenance in order to assess the performance of the systems and determine whether adaptations are necessary to protect receiving waters.

VII. PROJECT STATUS NOTIFICATIONS

A. DISCHARGE COMMENCEMENT NOTIFICATION

The Discharger must notify the San Diego Water Board in writing **at least 5 days prior to** the start of Project construction.

B. DISCHARGE COMPLETION NOTIFICATION

The Discharger must notify the San Diego Water Board in writing **within 30 days of completion of active Project construction activities**, including construction of any required restoration or compensatory mitigation. Submittal of the Notification does not obviate the Discharger's duty to comply with the requirements of the Order, pay any outstanding invoices of permit fees, or submit any outstanding required reports. The Notification shall include:

1. Dates of construction initiation and completion;
2. As-built drawings of the Project, no bigger than 11"X17";
3. BMP status, including photo documentation of implemented post-construction BMPs and all areas of permanent and temporary impacts, prior to and after project construction. Photo documentation must be conducted in accordance with guidelines posted at https://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation

⁴ *California Storm Water BMP Handbook, New Development and Redevelopment 2003*, available on CASQA's website at <https://www.casqa.org/resources/bmp-handbooks>

must include Global Positioning System (GPS) coordinates for each of the photo locations referenced;

4. A statement that the authorized activity and implementation of any required compensatory mitigation were conducted and completed in accordance with the Order, including any activity-specific or compensatory mitigation conditions; and
5. The signature of the Discharger certifying the completion of the activity in accordance with section VIII.H-J of the Order.

C. PROJECT COMPLETION NOTIFICATION

The Discharger shall submit a Project Completion Letter when construction activities, post-construction monitoring, and mitigation monitoring are complete⁵ and no further Project activities will occur. This written notification shall be submitted to the San Diego Water Board **within 30 days following completion of all Project activities**. Upon approval of the request, the San Diego Water Board will issue an Acceptance of Project Completion to the Discharger which will formally end the monitoring period and associated annual fees.

VIII. MONITORING AND REPORTING REQUIREMENTS

A. GEOGRAPHIC INFORMATION SYSTEM DATA

The Discharger must submit Geographic Information System (GIS) shape files of the Project impact sites within 30 days of the start of project construction. All impact and mitigation site shape files must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

B. REPRESENTATIVE MONITORING

Any samples and measurements taken for the purpose of monitoring under the Order shall be representative of the monitored activity.

C. MONITORING REPORTS

Any monitoring results shall be reported to the San Diego Water Board at the intervals specified in the Order.

D. MONITORING AND REPORTING REVISIONS

The San Diego Water Board may make revisions to any monitoring and reporting requirements of the Order at any time during the term of the Order and may reduce or increase the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.

⁵ Completion of post-construction and mitigation monitoring shall be contingent upon achievement of performance standards as determined by the San Diego Water Board.

E. RECORDS OF MONITORING INFORMATION

Any records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements,
2. The individual(s) who performed the sampling or measurements,
3. The date(s) analyses were performed,
4. The individual(s) who performed the analyses,
5. The analytical techniques or methods used, and
6. The results of such analyses.

F. ANNUAL PROGRESS REPORTS

The Applicant must submit annual progress reports describing Project status, status of BMP implementation, and compliance with all requirements of the Order to the San Diego Water Board prior to **September 30** of each year following the issuance of the Order, until the Project has reached completion. Annual Progress Reports must be submitted even if Project construction has not begun. The monitoring period for each Annual Progress Report shall be September 1st through August 31st of each year. Annual Progress Reports must include, at a minimum, the following:

1. The names, qualifications, and affiliations of the persons contributing to the report,
2. The status, progress, and anticipated schedule for completion of Project construction activities, including the installation and operational status of best management practices project features for erosion and storm water quality treatment, and mitigation project activities,
3. A description of Project construction delays encountered or anticipated that may affect the schedule for Project construction completion, or mitigation project completion, and
4. A summary description of each incident of noncompliance during the annual monitoring period and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

G. NONCOMPLIANCE REPORTS

The Discharger must report to the San Diego Water Board any noncompliance which may endanger human health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the incident and its cause, the period of the noncompliance including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The San Diego Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours.

H. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

1. For a corporation, by a responsible corporate officer of at least the level of vice president, or
2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively, or
3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

I. DULY AUTHORIZED REPRESENTATIVE

Applications, reports, or information submitted to the San Diego Water Board may be signed by a duly authorized representative of that person described in Reporting Requirement H, above, if:

1. The authorization is made in writing by a person described above,
2. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity; and
3. The written authorization is submitted to the San Diego Water Board.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

J. CERTIFICATION

All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

K. ELECTRONIC DOCUMENT SUBMITTAL

The Discharger must submit all reports and information required under the Order in electronic format to SanDiego@waterboards.ca.gov. Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc or flash drive and delivered to:

California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification PID 855844
2375 Northside Drive, Suite 100
San Diego, California 92108

Each electronic document must be submitted as a single, text-searchable PDF. All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: 401 Certification PID 855844.

IX. PROVISIONS

A. DUTY TO COMPLY WITH THE ORDER

The Discharger must comply with all conditions of the Order. Any noncompliance with the Order constitutes a violation of the Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of the Order; or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.

B. DUTY TO COMPLY WITH SUPPORTING MATERIALS

The Discharger must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the San Diego Water Board to support the Order and all subsequent submittals required under the Order and as described herein. The conditions within the Order shall supersede conflicting provisions within such plans, specifications, technical reports, and other submittals required under the Order.

C. ANTICIPATED NONCOMPLIANCE

The Discharger shall give advance notice to the San Diego Water Board of any planned changes in the Project or the compensatory mitigation project which may result in noncompliance with the terms and requirements of the Order.

D. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the Order.

E. DUTY TO MITIGATE

The Discharger shall take all reasonable steps to minimize or prevent any discharge in violation of the Order that has a reasonable likelihood of adversely affecting human health or the environment, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

F. PROPERTY RIGHTS

The Order does not convey any property rights of any sort or any exclusive privileges. The issuance of the Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

G. INSPECTION AND ENTRY

The Discharger must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to:

1. Enter upon the Discharger's premises, where a regulated facility or activity is located or conducted, or where records are kept under the conditions of the Order,
2. Access and copy, at reasonable times, any records that must be kept under the conditions of the Order,
3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under the Order, and
4. Sample or monitor, at reasonable times, for the purposes of assuring compliance with the Order or as otherwise authorized by the Water Code, any substances, or parameters at any location.

H. RETENTION OF RECORDS

The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by the Order, and records of all data used to complete the application for the Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. Records may be maintained electronically. This period may be extended during the course of any unresolved enforcement action or litigation regarding this discharge or when requested by the San Diego Water Board.

I. DUTY TO PROVIDE INFORMATION

The Discharger shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the Order. The Discharger shall also furnish to the San Diego Water Board, upon request, copies of records required to be kept by the Order.

J. REOPENER PROVISION

The Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following.

1. Violation of any terms or conditions of the Order.
2. Obtaining the Order by misrepresentation or failure to disclose fully all relevant facts.
3. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the Discharger for the modification, revocation, reissuance, or termination of the Order, or notification of planned changes or anticipated noncompliance does not stay any condition of the Order.

K. REOPENER PROVISION

The San Diego Water Board reserves the right to suspend, cancel, or modify and reissue the Order, after providing notice to the Discharger, if the San Diego Water Board determines that the Project fails to comply with any of the terms or requirements of the Order or if the results of the Project have unintended impacts to water quality.

L. TRANSFER OF RESPONSIBILITY

The Order is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board in accordance with the following terms:

1. **Transfer of Property Ownership.** The Discharger must notify the San Diego Water Board of any change in ownership of the Project area. Notification of change in ownership must include, at a minimum, a statement that the Discharger has provided the purchaser with a copy of the Order and that the purchaser understands and accepts the Order requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the San Diego Water Board within 10 days of the transfer of ownership.
2. **Transfer of Post Construction BMP Maintenance Responsibility.** The Discharger assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred the Discharger must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Discharger must provide such notification to the San Diego Water Board within 10 days of the transfer of BMP maintenance responsibility.

M. PAYMENT OF FEES

The Order is conditioned upon total payment of any fee required under California Code of Regulations, Title 23 section 2200, and owed by the Discharger.

N. ORDER AVAILABILITY

A copy of the Order, the application, and supporting documentation must be available at the Project site during construction for review by site personnel and agencies. A copy of the Order must also be provided to the contractor and all subcontractors working at the Project site.

O. ENFORCEMENT AUTHORITY

In the event of any violation or threatened violation of the conditions of the Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law.

P. INVESTIGATION OF VIOLATIONS

In response to a suspected violation of any condition of the Order, the San Diego Water Board may, pursuant to Water Code section 13267, require the Discharger to investigate, monitor, and report information on the violation. The only restriction is that the burden, including costs of preparing the reports, must bear a reasonable relationship to the need for and the benefits to be obtained from the reports.

X. NOTIFICATIONS TO DISCHARGER

- A.** These waste discharge requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to CWA section 402.
- B.** The provisions of the Order are severable, and if any provision of the Order, or the application of any provision of the Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the Order, shall not be affected thereby.
- C.** The Order becomes effective on the date of adoption by the San Diego Water Board.
- D.** Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code Section 13320 and the California Code of Regulations, title 23, sections 2050-2056 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after adoption of the Order. Copies of the law and regulations applicable to filing petitions may be found on the State Water Board's webpage titled [Water Quality Petitions](https://www.waterboards.ca.gov/public_notices/petitions/water_quality/) (https://www.waterboards.ca.gov/public_notices/petitions/water_quality/) or will be provided upon request.

ATTACHMENT A: PROJECT SITE MAPS AND PLANS

Figure 1: Regional location map showing Project location.

Figure 2: Project vicinity map showing Project location.

Figures 3A-B: Map of the Project impacts to waters of the State in the south (A) and north (B) sections of Maple Canyon.

ATTACHMENT B: PROHIBITIONS

The Water Quality Control Plan for the San Diego Basin (9) (Basin Plan), adopted on September 8, 1994 as amended, establishes the following Waste Discharge Prohibitions pursuant to California Water Code section 13243 applicable to the Discharge:

- Prohibition No. 1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code section 13050, is prohibited.
- Prohibition No. 2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code section 13264 is prohibited.
- Prohibition No. 3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code section 13376) is prohibited.
- Prohibition No. 7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the San Diego Water Board.